

section 37, the confidentiality provisions of section 6(e) still apply to the reiteration or reference. In addition, interpretative regulations issued under section 6(b) of the Act establish that disclosure of certain information may be barred if the disclosure would not be fair in the circumstances. 16 CFR 1101.33. Accordingly, issues of releasing additional information submitted pursuant to section 37 will also be evaluated under the fairness provisions of section 6(b). Should the Commission receive a request for such information or contemplate disclosure on its own initiative, the manufacturer will be given an opportunity to present arguments to the Commission why the information should not be disclosed, including, if appropriate, why disclosure of the information would be unfair in the circumstances. Among the factors the Commission will consider in evaluating the fairness of releasing the information are the nature of the information, the fact that it is an adjunct to a Congressional protected report, and whether the information in question supports the conclusion that a section 37 or 15(b), CPSC, report should have been filed earlier.

(c) Section 6(e) imposes no confidentiality requirements on information obtained by the Commission independently of a report pursuant to section 37. The provisions of section 6(b) govern the disclosure of such information.

§ 1116.10 Restrictions on use of reports.

No member of the Commission, no officer or employee of the Commission, and no officer or employee of the Department of Justice may use information provided to the Commission under section 37 for any purpose other than to carry out the responsibilities of the Commission.

§ 1116.11 Reports of civil actions under section 37 not admissions.

Pursuant to section 37(d), 15 U.S.C. 2084(d), the reporting of a civil action under section 37 shall not constitute an admission of—

- (a) An unreasonable risk of injury;
- (b) A defect in the consumer product which was the subject of the civil action;

- (c) A substantial product hazard;
- (d) An imminent hazard; or
- (e) Any other liability under any statute or any common law.

§ 1116.12 Commission response to section 37 reports.

Upon receipt of a section 37 report, the Commission will evaluate the information contained in the report and any relevant information contained in its files or data bases to determine what, if any, follow-up or remedial action by the Commission is appropriate. If the Commission requires additional information, it will notify the manufacturer in writing of the specific information to provide. In addition, the Commission will routinely review section 37 reports to determine whether the reporting manufacturers have fulfilled their obligations under both sections 37 and 15(b) in a timely manner. Such a review may also engender a request for additional information, including the dates on which final orders were entered in each of the lawsuits reported under section 37. The Commission will treat any subsequent submission of information by the manufacturer as a submission under section 37(c)(2)(B) subject to the restrictions on public disclosure contained in sections 6(a) and (b) of the Consumer Product Safety Act.

PART 1117—REPORTING OF CHOKING INCIDENTS INVOLVING MARBLES, SMALL BALLS, LATEX BALLOONS AND OTHER SMALL PARTS

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- 1117.1 Purpose.
- 1117.2 Definitions.
- 1117.3 Reportable information.
- 1117.4 Time for filing a report.
- 1117.5 Information that must be reported and to whom.
- 1117.6 Relation to section 15(b) of the CPSCA.
- 1117.7 Confidentiality of reports.
- 1117.8 Effect of reports on liability.
- 1117.9 Prohibited acts and sanctions.

AUTHORITY: Section 102 of the Child Safety Protection Act (Pub. L. No. 103-267), section 16(b), 15 U.S.C. 2065(b) and 5 U.S.C. 553.

SOURCE: 60 FR 10493, Feb. 27, 1995, unless otherwise noted.